

REMARKS

This Amendment is in response to the first Office action (Paper No. 20070820) mailed on 27 August 2007.

Listing of The Claims

Pursuant to 37 CFR §121(c), the claim listing, including the text of the claims, will serve to replace all prior versions of the claims, in the application.

Status of The Claims

Claims 1 through 12 are pending in this application.

Amendment of The Claims

Claims 1, 7 through 12 are amended.

Issues Raised by Paper № 20070820

I. Claim Rejection Under 35 U.S.C. §101

Rejection of claims 7-12 under 35 U.S.C. §101 as being directed to non-statutory subject matter.

Claims 7-12 are rejected under 35 U.S.C. §101 as the claimed invention being directed to non-statutory subject matter.

Regarding claims 7-12, on page 2, paragraph 2 of Paper No. 20070820, the Examiner stated:

“Claims 7 through 12 appear drawn to computer software which is non-statutory subject matter. The claims recite ‘modules’ and in light of the specification (see p. 8) wherein the agent and modules are ‘software’ modules. The

claims do not recite a proper computer readable storage medium or the corresponding computer structure to execute and realize the computer software.”

The Examiner’s thorough examination is highly appreciated. Accordingly, claim 7 is amended to read:

“A computer readable medium comprising stored thereon machine readable data structures for performing common call processing management”.

In addition, claims 8 -12 are amended to reflect the changes made in claim 7. The amended claims 7-12 are directed to a computer readable medium for storing computer software. According to the Manual of Patent Examining Procedure (MPEP) §2106.01.I,

“a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure’s functionality to be realized, and is thus statutory.”

Consequently, the amended claims 7-12 are directed to a statutory subject matter.

II. Claim Rejection Under 35 U.S.C. §102

Rejection of claims 1 and 7 under 35 U.S.C. §102 for alleged anticipation by Praturi *et al.*, U.S. Patent No. 7,076,042, issued on July 11.

Claims 1 and 7 are rejected under 35 U.S.C. §102 for alleged anticipation by Praturi *et al.*, U.S. Patent No. 7,076,042, issued on July 11, 2006, cited by the Examiner in this action.

Regarding claims 1 and 7, on pages 2-3, paragraph 4 of Paper No. 20070820, the

Examiner stated:

“As concerns claims 1 and 7, a method /apparatus for performing common call processing management using a common software platform including horizontal components for providing common functions required in all communication systems, and vertical components for providing specific functions on the basis of communication systems, comprising the steps of:

allowing a common agent (column 21, line 61-420 basic control module) to perform corresponding operations including an operation of gathering Internet information (column 12, line 22) on the basis of a predetermined schedule irrespective of a manager's intervention;

allowing an operations administration and maintenance module to administer and maintain a network in which the corresponding operations are performed on the Internet (column 13, lines 3-5 - OAM 218); and

allowing a common call processor (column 2, lines 30-42) to manage a subscriber in response to a call signal provided from a physical component receiving a subscriber signal and set up a voice path on the basis of the call signal where the subscriber signal can be transmitted through the voice path.

Applicant respectfully traverses.

First, respectfully, Praturi '042 fails to disclose a common software platform including horizontal components to enable common function required in all communication systems. Applicant's paragraph [0067] reads:

“As apparent from the above description, the present invention provides horizontal components, which provide common functions and hence can be reused in various communication systems, thereby enabling a software module to be configured without depending upon an OS (Operating System) or hardware device, when a communication system is

implemented.”

Accordingly, the pending claims defines horizontal components for providing common functions required in all communication systems. Therefore, these horizontal components can be reused in various systems. On the other hand, Praturi ‘042 does not disclose common functions as claimed in claims 1 and 7.

Secondly, respectfully, Praturi ‘042 fails to disclose the common agent defined in the pending claims. The Examiner alleged that Praturi’s basic control module 420 is equivalent to the pending claims’ common agent. The basic control module 420, however, does not

“perform corresponding operations including an operation of gathering Internet information on the basis of a predetermined schedule irrespective of a manager’s intervention”

as recited in the pending claims 1 and 7. Instead, Praturi’s basic control module 420 merely establishes, monitors, and clears calls. See column 21, lines 18-21 of Praturi ‘420:

“Basic control module 420 establishes, monitors, and clears calls. Basic control module 420 may include a basic call state machine that responds to messages describing events occurring in protocol-based networks 412.”

In addition, Praturi ‘420 fails to disclose gathering Internet information by the common agent. Column 12, line 22 of Praturi ‘420, as cited by the Examiner, reads:

“Communication network 21 may comprise, for example, all or a portion of the Internet, and network components 12 may communicate using, for example, any

suitable Internet protocol.”

Therefore, Praturi ‘420 merely discloses that the communication network may comprise the Internet. Praturi ‘420, however, does not disclose that the common agent gathers the Internet information, as recited in the pending claims 1 and 7.

Thirdly, respectfully, Praturi ‘042 fails to disclose the common call processor defined in the pending claims. Column 2, lines 30-42 of Praturi ‘042 as cited by the Examiner merely provides a brief description of FIGS. 2-6 of Praturi ‘042. Column 2, lines 30-42 of Praturi ‘042 reads:

“FIG. 2 is a block diagram illustrating one example of a network component of FIG. 1 that includes a platform;

FIG. 3 is a block diagram illustrating one example of a process manager of FIG. 2;

FIG. 4 is a flowchart illustrating one example of a method for managing processes using the process manager of FIG. 3;

FIG. 5 is a block diagram of one example of a data communication system for communicating data among processes of a network component;

FIG. 6 is a block diagram illustrating examples of a shared memory queue and a heap memory queue of a message queue of FIG. 5”.

None of the cited drawings characterizes a common call processor for managing a subscriber in response to a call signal, as recited in the pending claims. In addition, the integrated services digital network user part (ISUP) layer 432 of Praturi ‘042, as cited by the Examiner, does not set up a voice path. See column 21, lines 38-40 of Praturi ‘042:

“An integrated services digital network user part (ISUP) layer 432 provides functions for setting up, coordinating, and taking down calls”.

Therefore, Praturi '420 fails to disclose a common call processor for setting up a voice path.

As mentioned in the MPEP §2131,

“a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.”¹

Every element must be literally present, arranged as in the claim.² The identical invention must be shown in as complete detail as is contained in the patent claim. Id.,

“All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 165 USPQ 494, 496 (CCPA 1970), and MPEP 2143.03.

Moreover, under 35 U.S.C. § 102, it is error to assume that two structures are the same or equivalent simply because they perform the same function. The Federal Circuit has held it error to assume that two structures are the same or equivalent simply because they perform the same function.³ Infringement (or anticipation) is found only if the claimed function is performed by either the same structure (or acts) that the specification

¹ *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

² *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (CAFC 1989).

³ *Roton Barrier, Inc. v. Stanley Works*, 79 F.3d 1112, 1126-27 (Fed. Cir. 1996); *Pennwalt Corp. v. Durand-Wayland, Inc.*, 833 F.2d 931, 934 (Fed. Cir. 1987) (en banc) (“Pennwalt erroneously argues that, if an accused structure performs the function required by the claim, it is per se structurally equivalent”), cert. denied, 485 U.S. 961 (1988).

describes or else by an equivalent of the structure (or acts).⁴

Consequently, here the Examiner must take notice of the recognition within the art, that basic control module taught by Praturi '042 is not synonymous with the common agent as defined by the pending claims 1 and 7. Moreover, Praturi '042 fails to disclose a common call processor defined by the pending claims 1 and 7. Therefore, the pending claims 1 and 7 is patentably distinguishable over Praturi '042.

In view of the above, it is submitted that the claims of this application are in condition for allowance, and early issuance thereof is solicited. Should any questions remain unresolved, the Examiner is requested to telephone Applicant's attorney.

No fee is incurred by this Amendment.

Respectfully submitted,



Robert E. Bushnell,
Attorney for the Applicant
Registration No.: 27,774

1522 "K" Street N.W., Suite 300
Washington, D.C. 20005
(202) 408-9040

Folio: P56865
Date: 11/27/07
I.D.: REB/YFM

⁴ *Texas Instruments Inc. v. United States Int'l Trade Comm'n*, 805 F.2d 1558, 1562, 231 USPQ 833, 834-35 (Fed. Cir. 1986).